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DE RUEHEK #1021/01 2800932

ZNR UUUUU ZZH

P 060932Z OCT 08 ZDK

FM AMEMBASSY BISHKEK

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UNCLAS SECTION 01 OF 02 BISHKEK 001021

SENSITIVE

SIPDIS

DEPT FOR SCA/CEN AND SCA/PPD

E.O. 12958: N/A

TAGS: PREL PGOV KPAO KG

SUBJECT: Libel Suits Chill Free Speech in Kyrgyzstan

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¶1. (SBU) SUMMARY: A successful libel suit by President Bakiyev's nephew against two independent newspapers has opened a veritable flood gate to additional criminal and civil suits against newspapers. The suits, which can result in awards of one million soms (over \$28,000) in moral damages, are often enough to bankrupt a newspaper or force its closure. END SUMMARY.

Alibi and De Fakto First in the Crosshairs

¶2. (SBU) On June 2, in a libel suit filed by President Bakiyev's nephew, Asylbek Saliyev, the Pervomaisky Rayon Court ruled against independent newspapers "De Facto" and "Alibi." The Court ordered the newspapers to pay Saliyev one million soms (over \$28,000) as "compensation for moral damage" for suggesting that Saliyev was involved in a fatal car crash in March 2007.

¶3. (SBU) "De Fakto" newspaper's initial reaction to the court ruling was to treat it as a joke and start a collection from readers, saying, "We need one million soms in donations for the needy President's family." However, before it could raise the funds, it again ran into trouble. On June 14, "De Fakto" published a statement by Zamira Moldozheva, who identified herself as a Tax Inspection Officer and accused the Head of the Kyrgyz Tax Inspection of corruption. Zamira Moldozheva was apparently an alias, and the author of the letter was never identified.

¶4. (SBU) It is possible that the letter was an attempt to "frame" the newspaper, as one day after the letter was published, police raided "De Fakto," confiscated computers and documents, and sealed the offices. Officials accused Editor-in-Chief Cholpon Orozobekova of "deliberately providing false statements," a criminal charge normally reserved for those who provide false statements to law enforcement officials and is punishable by up to 5 years imprisonment. Orozobekova's bank accounts and assets were frozen. Government officials and organizations also filed defamation claims against "De Fakto" and won awards of 4 million soms (over \$112,000). Orozobekova has since gone into hiding, unable to pay the 5 million soms she owes and fearing criminal prosecution.

¶ 15. (SBU) "Alibi" newspaper took a different tack, agreeing to pay the one million soms compensation to Saliyev and printing a retraction. It only asked the court for some time to come up with the money and to make payments in installations. Nonetheless, on August 22, police seized the whole press run of the paper "under legal process." Prosecutors went one step further, filing a criminal case for "malicious non-fulfillment of a court decision" against Editor-in-Chief Babyrbek Djeenbekov. On August 29, in an attempt to avoid paying the fine, Djeenbekov closed down Alibi and published the final issue, which announced the establishment of a new newspaper, "Achyk Sayasat" ("Open Politics"). On September 10, Djeenbekov was arrested for failing to comply with a court verdict but was released the following day. (Comment: In Kyrgyzstan, newspapers can avoid paying libel damages by ceasing operations and reopening under a different legal name.)

Use of the Tactic Spreads

¶ 16. (SBU) On July 29, a court hearing was held to rule on a claim against monthly human rights bulletin "Prava Dlya Vseh" ("Rights for Everyone"). Manager of the South Kyrgyz Cement Factory and former Minister of Industry, Yan Fisher, filed a civil suit against "Prava Dlya Vseh" because the bulletin published an article that was critical of South Kyrgyz Cement's hiring practices. Mr. Fisher asked the court to press criminal charges against the publication, to fine it 1 million soms, and to close it down. After human rights activists intervened, the parties came to an amicable agreement.

¶ 17. (SBU) On August 26, Osh city Vice-Mayor Ainura Shayimkulova filed a defamation case against "Jany Zaman" newspaper, requesting 1 million soms compensation for insulting her honor and dignity. The

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next day, Erkin Kojogeldiyev, Editor-in-Chief of "Jany Zaman", filed a ten million som counter-suit against Shayimkulova for insulting his honor and dignity. He told Azattyk Radio that the case against President Bakiev's nephew set a bad precedent for other government officials who think they can close any newspaper with whom they disagree. The case has not yet been decided by the courts.

¶ 18. (SBU) On August 28, the local press reported that the First Deputy Minister of Internal Affairs, Melis Turganbaev, filed a lawsuit against "Tribuna" newspaper for publishing his involvement in a sex scandal. "Aalam" newspaper owner, Shamshi Medetbekov, told the Embassy that the Minister of Economics, Akylbek Japarov, filed a court case against his paper. However, he said he had not received the formal complaint or summons.

¶ 19. (SBU) Comment: This trend is troubling. While other forms of mass media have seen increasing limitations on their freedom to report, certain newspapers have managed to maintain their independence. It is possible that these low-circulation weekly papers were not perceived as being influential enough to bother with manipulating. Now with even these small papers coming under attack, we predict that we will see a further contraction of freedom of speech in Kyrgyzstan.

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